

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

D. GEORGE SWEIGERT

Plaintiff,

vs.

JASON GOODMAN,

Defendant

Case No.: 1:18-cv-08653-VEC-SDA

**RESPONSE TO PLAINTIFF'S AMENDED  
MOTION FOR PRELIMINARY  
INJUNCTIVE RELIEF**

Plaintiff's motion seeking a preliminary injunction is tantamount to prior restraint and should be denied. Granting such an extraordinary remedy would risk violating Defendant's first amendment rights and could only be reserved for exceptional cases involving national security, imminent irreversible harm or other extreme circumstances. Plaintiff's motion is unlikely to succeed on the merits because the allegations upon which it is predicated have no basis in fact or law. Plaintiff is a vexatious litigant who has brought this suit in bad faith and for an improper purpose not the least of which being suppression of Defendant's first amendment rights. Plaintiff perpetuates this bad faith effort by seeking any and every opportunity he can to file additional superfluous pleadings despite Magistrate Judge Aaron's order issued November 6, 2020 stating that pleading in this matter is closed. (ECF No. 165 page 1)



**PLAINTIFF'S CLAIMS**

NYCRL § 50 and 51 provide a cause of action for "any person whose name, portrait, picture or voice is used within [New York] for advertising purposes or for the purposes of trade without" written consent. To state a claim under NYCRL § 50 and 51, the Plaintiff must satisfy three elements (1) use of name, portrait, or likeness; (2) for "advertising purposes or for the purposes of trade;" (3) without written permission.

Defendant does not dispute that Plaintiff has satisfied (1) and (3). However, Plaintiff has failed to satisfy (2) by falsely claiming his likeness was used for "advertising purposes or for the purposes of trade" as defined by NYCRL § 50 and 51. The statute includes broad exceptions for newsworthiness which Plaintiff has chosen to ignore. Instead, Plaintiff attempts to filibuster and obfuscate the simple facts of this matter with technical jargon about avatars, thumbnails, paywalls and firewalls. Despite Plaintiff's hollow, circuitous rhetoric, the fact is New York courts have held the advertising and trade definition to be narrowly construed. The exception to nonconsensual use of an individual's image pertains specifically to "newsworthy events or matters of public interest." *Lemerond v. Twentieth Century Fox Film Corp.*, No. 07 Civ. 4635, 2008 WL 918579, \*2 (S.D.N.Y. Mar. 31, 2008). The "newsworthiness" exception should be applied broadly and should include "not only descriptions of actual events, but also articles concerning political happenings, social trends or any subject of public interest." *Messenger*, 94 N.Y.2d at 441-42, 706 N.Y.S.2d at 55.

In determining newsworthiness, courts consider the "content of the article" over the author's motive. Plaintiff was unknown to Defendant prior to Plaintiff's proactive decision to inject himself into a public debate concerning Defendant's news reporting and other broadcasting. More than 119,000 individuals including residents of New York State view



1 Defendant's daily broadcasts. Many of these viewers email Defendant or contact him by other  
2 means to say they consider the Defendant their "favorite" or the "best" journalist they are aware  
3 of. While these judgements are subjective statements of opinion, a large number of individuals  
4 in the public express great interest in topics of discussion that are the subject of Goodman's  
5 broadcasts. Therefore, Plaintiff's actions related to efforts to terminate Defendant's broadcasts  
6 and repeatedly sue Defendant are of interest to members of the public in Defendant's audience.  
7 To the extent Plaintiff acts publicly with regard to Defendant, discussion of those actions  
8 including use of Plaintiff's name in headlines or elsewhere and depictions of his likeness do not  
9 require Plaintiff's explicit consent under NYCRL § 50 and 51.  
10  
11

12 Plaintiff's motion should also be denied because it fails to adequately state the  
13 irreparable harm alleged. Moreover, the potential denial of Defendant's first amendment rights  
14 would constitute irreparable harm tipping the equitable balance in Defendant's favor. To obtain  
15 a preliminary injunction, Plaintiff must make a clear showing of irreparable harm. Plaintiff's  
16 alleged irreparable harm claims pertain to his professional career which amounts to monetary  
17 damages and cannot be construed as irreparable harm. Should Plaintiff's complaint succeed on  
18 the merits of the claims the court would provide a financial remedy to cure the alleged harm.  
19 Plaintiff's claims of career damage are merely conclusory statements, and no evidence of the  
20 alleged harm is provided. Furthermore, Plaintiff has made public statements establishing the fact  
21 that he is retired. In a video posted to Plaintiff's YouTube channel on or about October 20, 2020  
22 and since removed, Plaintiff discusses his incessant filing of legal pleadings, stating "*I sit around*  
23 *my RV all day there's nothing to do, I'm not working I've got the drip, drip, drip of the retirement*  
24 *coming in I've got all day to work on these things.*" The video has been preserved by Defendant  
25  
26  
27  
28



1 (<https://www.bitchute.com/video/9ynoyffBWkVS/>) and a complete transcript is attached.

2 **(EXHIBIT A)**

3 As previously described in these pleadings Plaintiff is in a regular practice of agitating  
4 through the publication of incendiary blog posts and videos that he later removes to complicate  
5 presentation of evidence against him. Plaintiff's claim that he is retired is one claim Defendant  
6 believes as it is the only logical explanation as to how Plaintiff could possibly spend all day,  
7 week after week filing lengthy pleadings filled with false allegations and baseless claims against  
8 Defendant. This likely true claim directly contradicts claims of damage to Plaintiff's career.  
9

10 **PUBLIC INTEREST**

11 If granted, this injunctive relief would be adverse to the public interest for reasons  
12 including the potential violation of first amendment rights and abuse of the civil justice system.  
13 The public interest weighs against granting a preliminary injunction because the Plaintiff is  
14 abusing the civil justice system by weaponizing it against his perceived enemies including  
15 Defendant. By bringing this action for the wrongful purpose of chilling the Defendant's first  
16 amendment rights, the Plaintiff is wasting judicial resources and acting against public interest.  
17 Although not an embarred attorney, the Plaintiff claims to have gone to law school. In a video  
18 published on Plaintiff's YouTube channel on or around October 30, 2020 Plaintiff taunts his  
19 brother George Webb Sweigert as he advises him to bring legal action against Defendant.  
20 Plaintiff states "*don't forget George, I did go to law school.*" The video has since been removed  
21 but has been preserved by Defendant (<https://www.bitchute.com/video/aizOKaV9xvu3/>) and a  
22 complete transcript is attached. **(EXHIBIT B)**

23 As a person with legal training who willfully abuses the civil justice system, Plaintiff  
24 poses a threat to unsuspecting members of the general public who might unintentionally cross  
25



1 him on YouTube or Twitter. Plaintiff is in a regular practice of bringing lawsuits replete with  
2 vexatious pleadings, attempting to intervene inappropriately in existing lawsuits, advising third  
3 parties to bring frivolous lawsuits and threatening his perceived enemies online with a litany of  
4 legal actions and other abuses. The injunctive relief sought is actually intended to prevent  
5 Defendant from revealing these facts to the public as Defendant attempts to stop Plaintiff's  
6 ongoing abuse of the justice system and misuse of judicial resources. Plaintiff cannot clearly and  
7 unequivocally show that an injunction would not be adverse to the public interest.

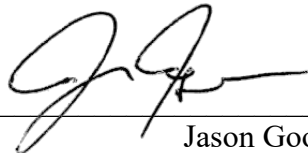
### CONCLUSION

10 Plaintiff's motion should be denied for the above stated reasons and any additional  
11 reasons the court finds. Defendant respectfully moves this court to deny Plaintiff's request for  
12 preliminary injunctive relief.

14 I hereby attest that the pleadings herein are accurate and true under penalties of perjury.  
15 Further, I hereby attest that the attached exhibits are accurate and true copies of source  
16 documents as described.

17 Respectfully submitted

18 December 14, 2020



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**(EXHIBIT A)**



0:00:01.599,0:00:05.040  
everybody it's Dave

0:00:03.120,0:00:07.120  
welcome back to our hypothetical and

0:00:05.040,0:00:09.120  
theoretical analysis

0:00:07.120,0:00:11.200  
of those legal issues that we have a

0:00:09.120,0:00:13.639  
scholarly interest in no matter how

0:00:11.200,0:00:16.560  
illogical and

0:00:13.639,0:00:18.560  
incomprehensible and remember we never

0:00:16.560,0:00:19.279  
want to create unnecessary public alarm

0:00:18.560,0:00:22.240  
and

0:00:19.279,0:00:24.599  
viewer discretion is advised well we did

0:00:22.240,0:00:29.760  
see an analysis from

0:00:24.599,0:00:32.880  
defender fandango

0:00:29.760,0:00:35.840  
yeah we got to see his analysis of the

0:00:32.880,0:00:38.960  
documents that were filed in virginia

0:00:35.840,0:00:40.719  
that's the case his old friend uh

0:00:38.960,0:00:42.239  
who's the name of that guy robert david

0:00:40.719,0:00:44.719  
delio that case

0:00:42.239,0:00:45.920  
and all the people coming and going not



0:00:44.719,0:00:48.239  
to mention

0:00:45.920,0:00:51.520  
it's a refiling of a former case i think

0:00:48.239,0:00:53.760  
most people are following the case

0:00:51.520,0:00:56.239  
and hey let's face it people don't watch

0:00:53.760,0:00:56.239  
the uh

0:00:56.480,0:01:02.960  
show for legal analysis

0:01:00.079,0:01:04.640  
i mean that's not why they watch they

0:01:02.960,0:01:07.439  
watch to hear his funny little

0:01:04.640,0:01:08.640  
jokes and how he goes after people and

0:01:07.439,0:01:11.040  
smears people

0:01:08.640,0:01:13.439  
and you know that kind of stuff that's

0:01:11.040,0:01:14.880  
what people watch

0:01:13.439,0:01:17.520  
that's what they're interested in who's

0:01:14.880,0:01:20.960  
going to be smeared this week

0:01:17.520,0:01:22.320  
which is fine but uh you know

0:01:20.960,0:01:24.400  
people didn't think this was going to

0:01:22.320,0:01:27.040  
get filed and it's the first step i mean

0:01:24.400,0:01:28.640  
obviously when you build a complex case



0:01:27.040,0:01:30.240  
for racketeering you have to lay some

0:01:28.640,0:01:33.200  
groundwork

0:01:30.240,0:01:34.640  
so we have the initial stage one in

0:01:33.200,0:01:35.759  
virginia that lays some of the

0:01:34.640,0:01:38.560  
groundwork

0:01:35.759,0:01:41.119  
and we build upon that and a lot of

0:01:38.560,0:01:44.320  
people just don't understand that

0:01:41.119,0:01:46.000  
so you get folks that uh well it's

0:01:44.320,0:01:47.920  
easier it's easier for the human mind to

0:01:46.000,0:01:51.360  
go well he's a conspiracy theorist just

0:01:47.920,0:01:53.280  
don't even listen to him or whatever

0:01:51.360,0:01:55.680  
and because it is a lot of reading it's

0:01:53.280,0:01:57.840  
a lot of research but hey

0:01:55.680,0:01:59.920  
you know what am i going to do i mean i

0:01:57.840,0:02:00.960  
sit around my rv all day there's nothing

0:01:59.920,0:02:04.320  
to do

0:02:00.960,0:02:06.159  
i'm not working i've got the drip drip

0:02:04.320,0:02:07.840  
drip of the retirement coming in i've



0:02:06.159,0:02:09.440  
got all day to work on these things and

0:02:07.840,0:02:11.360  
it's interesting it's fascinating to

0:02:09.440,0:02:13.680  
learn more

0:02:11.360,0:02:15.599  
and you know the reason i do this is i

0:02:13.680,0:02:18.080  
was empowered when uh

0:02:15.599,0:02:19.120  
jason hey jason that's me like

0:02:18.080,0:02:21.680  
crowdsourced a

0:02:19.120,0:02:24.400  
doom right remember used to do that

0:02:21.680,0:02:25.920  
counter law fair report with uh brian

0:02:24.400,0:02:28.319  
cul-de-sac

0:02:25.920,0:02:30.480  
from muncie indiana he was the one

0:02:28.319,0:02:33.360  
saying we need to empower people

0:02:30.480,0:02:34.879  
i feel empowered that's all i just feel

0:02:33.360,0:02:37.680  
empowered

0:02:34.879,0:02:39.200  
so thanks to jason for empowering me oh

0:02:37.680,0:02:41.560  
by the way

0:02:39.200,0:02:43.680  
some people are having trouble going to

0:02:41.560,0:02:45.120  
sdny.org



0:02:43.680,0:02:50.319

so we thought we'd make it easier all

0:02:45.120,0:02:54.879

you have to do is go to defango.org not

0:02:50.319,0:03:01.920

defendo not fandango

0:02:54.879,0:03:01.920

but thefango.org



**(EXHIBIT B)**



0:00:00.719,0:00:04.560  
everybody it's dave welcome back to our

0:00:02.560,0:00:06.560  
hypothetical and theoretical analysis of

0:00:04.560,0:00:08.639  
those legal issues that we have a

0:00:06.560,0:00:10.759  
scholarly interest in

0:00:08.639,0:00:12.719  
no matter how illogical and

0:00:10.759,0:00:14.320  
incomprehensible

0:00:12.719,0:00:16.320  
and remember we never want to create

0:00:14.320,0:00:18.480  
unnecessary public alarm and viewer

0:00:16.320,0:00:22.400  
discretion is advised

0:00:18.480,0:00:26.240  
um i didn't want to do this video

0:00:22.400,0:00:29.279  
because this video is about george

0:00:26.240,0:00:31.679  
george webb persecuted youtube

0:00:29.279,0:00:34.000  
journalist yeah he's in

0:00:31.679,0:00:36.399  
michigan hanging out with the treehouse

0:00:34.000,0:00:38.160  
club i guess this is a new uh business

0:00:36.399,0:00:39.840  
model they're gonna have this treehouse

0:00:38.160,0:00:41.280  
of people that are

0:00:39.840,0:00:43.200  
having their first beer they're all



0:00:41.280,0:00:45.440  
gonna sit around and discuss the end of

0:00:43.200,0:00:47.520  
the world because it's all

0:00:45.440,0:00:48.800  
associated with some boogie men that

0:00:47.520,0:00:50.000  
george is located

0:00:48.800,0:00:52.000  
all right so george let me tell you

0:00:50.000,0:00:54.160  
about this uh complaint you already know

0:00:52.000,0:00:55.120  
it's bad you know it's ridiculous it's

0:00:54.160,0:00:56.480  
going to be ripped up

0:00:55.120,0:00:58.480  
question number one how come you're not

0:00:56.480,0:01:01.120  
suing good old jason over there

0:00:58.480,0:01:03.440  
crowdsourced to doom that's right george

0:01:01.120,0:01:06.479  
remember when you told me about

0:01:03.440,0:01:07.600  
you slept with dave's wife i put that in

0:01:06.479,0:01:10.479  
my complaint

0:01:07.600,0:01:11.360  
you know i just got jason's documents

0:01:10.479,0:01:13.920  
from the good old

0:01:11.360,0:01:15.920  
sdn white i'm going through them and you

0:01:13.920,0:01:19.280  
really ran your mouth with jason



0:01:15.920,0:01:22.640  
quite a bit about my life

0:01:19.280,0:01:25.280  
and uh also your girlfriend deep nsa

0:01:22.640,0:01:26.400  
she's highlighted in there as well so

0:01:25.280,0:01:29.200  
you know i'm not a real

0:01:26.400,0:01:30.960  
fan i'm not a real fan of you thinking

0:01:29.200,0:01:33.439  
you're going to file a lawsuit

0:01:30.960,0:01:36.000  
the person you should be suing is jason

0:01:33.439,0:01:38.479  
over there crowdsource the doom

0:01:36.000,0:01:41.040  
but this is going to be categorized as a

0:01:38.479,0:01:43.600  
larp lawsuit by all your enemies

0:01:41.040,0:01:45.520  
that this is just you getting a few

0:01:43.600,0:01:47.520  
things off your chest and it hasn't been

0:01:45.520,0:01:48.560  
filed so that's a credit to you that you

0:01:47.520,0:01:51.600  
haven't filed this

0:01:48.560,0:01:53.360  
mess jumble of irrelevancies don't

0:01:51.600,0:01:55.439  
forget george i did go to law school

0:01:53.360,0:01:56.960  
something that you tried to do and you

0:01:55.439,0:01:58.159  
never were able to pull off



0:01:56.960,0:02:00.079

you couldn't get into law school

0:01:58.159,0:02:02.399

remember remember when you took that

0:02:00.079,0:02:03.600

lsat and i think there was never a score

0:02:02.399,0:02:05.280

as low as you got

0:02:03.600,0:02:06.960

because you're just a basketball player

0:02:05.280,0:02:10.959

everybody understands that

0:02:06.960,0:02:12.879

go coach basketball don't get on youtube

0:02:10.959,0:02:15.920

and work on lawsuits you're out of your

0:02:12.879,0:02:18.319

league you're out of your element donnie

0:02:15.920,0:02:19.520

so uh sorry about that reference a lot

0:02:18.319,0:02:20.319

of people don't know what i'm talking

0:02:19.520,0:02:24.000

about

0:02:20.319,0:02:25.040

it's league game smokey remember when uh

0:02:24.000,0:02:28.160

who is that

0:02:25.040,0:02:29.760

john goodman john goodman pulls out the

0:02:28.160,0:02:32.800

45 on smokey

0:02:29.760,0:02:34.160

over the line you know uh that's the

0:02:32.800,0:02:36.400

deal we have with you here



0:02:34.160,0:02:37.599  
george you know is this your homework

0:02:36.400,0:02:39.200  
george is this your home

0:02:37.599,0:02:40.720  
we know this is your homework george we

0:02:39.200,0:02:42.640  
know this is your that's the big

0:02:40.720,0:02:43.040  
lebowski we kind of weave in some of

0:02:42.640,0:02:45.360  
those

0:02:43.040,0:02:46.239  
comical things so here's what's going to

0:02:45.360,0:02:48.319  
happen george

0:02:46.239,0:02:50.480  
uh cnn's going to come back for court

0:02:48.319,0:02:53.519  
costs and attorneys fees

0:02:50.480,0:02:55.360  
now this just happened with uh

0:02:53.519,0:02:56.720  
ed blutowski that's why you should have

0:02:55.360,0:02:58.319  
checked on it but you didn't

0:02:56.720,0:03:00.080  
because you're really not that much of

0:02:58.319,0:03:02.000  
an investigative reporter just like your

0:03:00.080,0:03:02.959  
friend jason over at crowdsource the

0:03:02.000,0:03:05.200  
doom

0:03:02.959,0:03:06.640  
basically what it what you guys do you



0:03:05.200,0:03:08.560

go around and

0:03:06.640,0:03:10.000

i don't know hang out in bars and drink

0:03:08.560,0:03:11.680

i don't know what you guys do but you're

0:03:10.000,0:03:13.360

not investigative reporters that's

0:03:11.680,0:03:15.360

openly admitted

0:03:13.360,0:03:16.840

so as far as this case is concerned look

0:03:15.360,0:03:20.239

at ed blutowski

0:03:16.840,0:03:23.040

65 000 in court costs

0:03:20.239,0:03:23.599

when he sued national public radio and

0:03:23.040,0:03:26.720

then he

0:03:23.599,0:03:28.560

basically just cut bait and ran and said

0:03:26.720,0:03:29.440

i'll dismiss the case if you forgive the

0:03:28.560,0:03:31.200

65

0:03:29.440,0:03:33.200

000 in attorney's fees that's what

0:03:31.200,0:03:34.959

you're looking at george

0:03:33.200,0:03:36.799

you're looking at attorney's fees and

0:03:34.959,0:03:37.680

plus cnn is going to want to change a

0:03:36.799,0:03:39.440

venue



0:03:37.680,0:03:41.680  
none of this happened in detroit it all

0:03:39.440,0:03:43.760  
happened in maryland with deep nsa

0:03:41.680,0:03:45.680  
your former girlfriend that's where

0:03:43.760,0:03:49.200  
these activities took place

0:03:45.680,0:03:51.200  
now if you want me to i can sashay in

0:03:49.200,0:03:52.080  
and file an intervention and try to get

0:03:51.200,0:03:54.720  
a

0:03:52.080,0:03:56.560  
change of venue back to maryland and

0:03:54.720,0:04:00.879  
back to your old girlfriend

0:03:56.560,0:04:00.879  
deep nsa